

HOUSE BILL 1338

E3

0lr2890
CF 0lr3432

By: **Delegates Ramirez, Gutierrez, Lee, and Simmons**

Introduced and read first time: February 18, 2010

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **State Government – Office of the Juvenile Justice Monitor**

3 FOR the purpose of renaming the Office of the Juvenile Justice Monitoring Unit to be
4 the Office of the Juvenile Justice Monitor in the Office of the Attorney General;
5 altering the membership of the State Advisory Board for Juvenile Services;
6 specifying certain duties and authority of the Office of the Juvenile Justice
7 Monitor; requiring the Department of Juvenile Services to take certain actions
8 under certain circumstances; providing for certain access to certain records by
9 the Office of the Juvenile Justice Monitor; providing for the confidentiality and
10 the disclosure of certain records; making conforming changes; defining certain
11 terms; and generally relating to the establishment of the Office of the Juvenile
12 Justice Monitor in the Office of the Attorney General.

13 BY repealing and reenacting, with amendments,
14 Article – Human Services
15 Section 1–202(c)(1)(ix), 9–212(a), 9–221(b)(1), 9–227(c)(2)(iii), and 9–230(c)
16 Annotated Code of Maryland
17 (2007 Volume and 2009 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – State Government
20 Section 6–401 through 6–406 to be under the amended subtitle “Subtitle 4.
21 Office of the Juvenile Justice Monitor”
22 Annotated Code of Maryland
23 (2009 Replacement Volume)

24 BY adding to
25 Article – State Government
26 Section 6–406 and 6–408
27 Annotated Code of Maryland
28 (2009 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Human Services**

4 1–202.

5 (c) A report or record concerning child abuse or neglect:

6 (1) may be disclosed on request to:

7 (ix) the **OFFICE OF THE** Juvenile Justice [Monitoring Unit]
8 **MONITOR** of the Office of the Attorney General established under Title 6, Subtitle 4 of
9 the State Government Article; or

10 9–212.

11 (a) **(1)** The State Advisory Board consists of the following 19 members
12 appointed by the Governor:

13 [(1)] **(I)** one representative of the Department;

14 [(2)] **(II)** one representative of the State Department of Education;

15 [(3)] **(III)** one representative of the Department of Health and Mental
16 Hygiene;

17 [(4)] **(IV)** one representative of the Department of State Police;

18 [(5)] **(V)** one representative of the Social Services Administration of
19 the Department of Human Resources;

20 [(6)] **(VI)** one representative of a private child welfare agency;

21 [(7)] **(VII)** one representative of a youth services bureau;

22 [(8)] **(VIII)** three representatives of the State judiciary;

23 [(9)] **(IX)** one representative of the General Assembly recommended
24 by the President of the Senate;

25 [(10)] **(X)** one representative of the General Assembly recommended
26 by the Speaker of the House; and

27 [(11)] **(XI)** seven members of the general public.

1 **(2) A REPRESENTATIVE OF THE OFFICE OF THE JUVENILE**
2 **JUSTICE MONITOR OF THE OFFICE OF THE ATTORNEY GENERAL ESTABLISHED**
3 **UNDER TITLE 6, SUBTITLE 4 OF THE STATE GOVERNMENT ARTICLE, SHALL**
4 **SERVE ON THE BOARD.**

5 9–221.

6 (b) (1) The Department shall cooperate with the **OFFICE OF THE**
7 **Juvenile Justice [Monitoring Unit] MONITOR** of the Office of the Attorney General
8 established under Title 6, Subtitle 4 of the State Government Article by:

9 (i) providing the **[Unit] OFFICE OF THE JUVENILE JUSTICE**
10 **MONITOR** with access to all facilities, reports, and records relating to a child on
11 request;

12 (ii) allowing the juvenile justice monitors to conduct interviews
13 with staff, children, and any other individuals on request; and

14 (iii) submitting corrective action plans and incident reports to
15 the **[Unit] OFFICE OF THE JUVENILE JUSTICE MONITOR** in response to findings
16 and recommendations made by the juvenile justice monitors regarding a facility.

17 9–227.

18 (c) (2) The policy shall:

19 (iii) require the Department to forward in a timely manner all
20 reports of disciplinary actions, grievances, and grievance dispositions from each
21 facility to the **OFFICE OF THE Juvenile Justice [Monitoring Unit] MONITOR** of the
22 Office of the Attorney General established under Title 6, Subtitle 4 of the State
23 Government Article.

24 9–230.

25 (c) A representative of the **OFFICE OF THE Juvenile Justice [Monitoring**
26 **Unit] MONITOR** of the Office of the Attorney General established under Title 6,
27 Subtitle 4 of the State Government Article shall be available to attend meetings of
28 each advisory board.

29 **Article – State Government**

30 **Subtitle 4. OFFICE OF THE Juvenile Justice [Monitoring Unit] MONITOR.**

31 6–401.

1 (a) In this subtitle the following words have the meanings indicated.

2 (B) **“CHILDREN” MEANS CHILDREN UNDER THE JURISDICTION OF THE**
3 **DEPARTMENT.**

4 [(b)] (C) “Department” means the Department of Juvenile Services.

5 (D) **“DIRECTOR” MEANS THE DIRECTOR OF THE OFFICE OF THE**
6 **JUVENILE JUSTICE MONITOR.**

7 [(c)] (E) “Disciplinary action” means any punitive action against a child
8 that results in more security, additional obligations, or less personal freedom.

9 [(d)] (F) “Executive Director” means the Executive Director of the
10 Governor’s Office for Children.

11 [(e)] (G) “Facility” means:

12 (1) a residential facility operated by the Department;

13 (2) a residential facility owned by the Department but privately
14 operated; [and]

15 (3) a residential facility licensed by the Department; **AND**

16 (4) **A RESIDENTIAL FACILITY IN WHICH CHILDREN COMMITTED**
17 **TO THE DEPARTMENT ARE PLACED.**

18 [(f)] (H) (1) “Grievance” means a complaint made by a child or on behalf
19 of a child due to a circumstance or an action considered to be unjust.

20 (2) “Grievance” does not include an employee grievance, disciplinary
21 appeal, or complaint.

22 [(g)] “Juvenile justice monitor” means an individual employed by the Office of
23 the Attorney General to determine whether the needs of children under the
24 jurisdiction of the Department are being met in compliance with State law, that their
25 rights are being upheld, and that they are not being abused.

26 [(h)] (I) “Secretary” means the Secretary of Juvenile Services.

27 [(i)] “Unit” means the Juvenile Justice Monitoring Unit of the Office of the
28 Attorney General.]

1 (a) (1) There is [a] **AN OFFICE OF THE** Juvenile Justice [Monitoring
2 Unit of] **MONITOR IN** the Office of the Attorney General.

3 (2) **THE OFFICE OF THE JUVENILE JUSTICE MONITOR SHALL**
4 **ACT INDEPENDENTLY OF ANY STATE DEPARTMENT IN THE PERFORMANCE OF**
5 **ITS DUTIES.**

6 (b) The function of the [Unit] **OFFICE OF THE JUVENILE JUSTICE**
7 **MONITOR** is to:

8 (1) investigate and determine whether the needs of children under the
9 jurisdiction of the Department of Juvenile Services are being met in compliance with
10 State law[, that their rights are being upheld, and that they are not being abused];

11 (2) **EVALUATE CONDITIONS IN FACILITIES AND SERVICES**
12 **PROVIDED TO CHILDREN; AND**

13 (3) **MAKE RECOMMENDATIONS TO IMPROVE CONDITIONS IN**
14 **FACILITIES AND SERVICES PROVIDED TO CHILDREN.**

15 6-403.

16 (a) The [Unit] **OFFICE OF THE JUVENILE JUSTICE MONITOR** shall
17 include:

18 (1) a full-time Director [of Juvenile Justice Monitoring]; and

19 (2) staff, including juvenile justice monitors, as provided in the State
20 budget.

21 (b) Salaries of the Director and juvenile justice monitors and expenses for
22 rent, equipment, supplies, and general operating expenses necessary for the work of
23 the [Unit] **OFFICE OF THE JUVENILE JUSTICE MONITOR** shall be as provided in
24 the State budget.

25 (c) In cooperation with the Secretary of Budget and Management, the
26 Attorney General shall:

27 (1) **APPOINT THE DIRECTOR; AND**

28 (2) set minimum salaries, qualifications, and standards of training
29 and experience for positions with the [Unit] **OFFICE OF THE JUVENILE JUSTICE**
30 **MONITOR.**

31 6-404.

1 [The Unit shall:

2 (1) evaluate at each facility:

3 (i) the child advocacy grievance process;

4 (ii) the Department's monitoring process;

5 (iii) the treatment of and services to youth;

6 (iv) the physical conditions of the facility; and

7 (v) the adequacy of staffing;]

8 **(A) THE OFFICE OF THE JUVENILE JUSTICE MONITOR SHALL**
9 **INVESTIGATE THE TREATMENT OF AND SERVICES TO CHILDREN.**

10 **(B) TO AID ITS INVESTIGATION, THE OFFICE OF THE JUVENILE**
11 **JUSTICE MONITOR SHALL:**

12 **[(2)] (1)** review all reports of disciplinary actions, grievances, and
13 grievance dispositions received from each facility and alterations in the status or
14 placement of a child that result in more security, additional obligations, or less
15 personal freedom;

16 **[(3)] (2)** receive copies of the grievances submitted to the
17 Department;

18 **[(4)] (3)** perform unannounced site visits and on-site inspections of
19 facilities, **INCLUDING CONDUCTING RESEARCH AUDITS OR OTHER STUDIES OF**
20 **CASE RECORDS, POLICIES, PROCEDURES, AND PROTOCOLS, AS DEEMED**
21 **NECESSARY BY THE OFFICE TO ASSESS PERFORMANCE;**

22 **[(5)] (4)** receive and review all incident reports submitted to the
23 Department from facilities **AND INVESTIGATIVE REPORTS PRODUCED BY THE**
24 **DEPARTMENT;**

25 **(5) BE PROMPTLY NOTIFIED BY LOCAL CHILD PROTECTIVE**
26 **SERVICES OFFICES AND THE DEPARTMENT OF ALL ALLEGATIONS OF ABUSE OR**
27 **NEGLECT OF A CHILD IN A FACILITY;**

28 **(6) PARTICIPATE, WITHIN THE CONTEXT OF THE**
29 **MULTIDISCIPLINARY TEAM PROCESS OF THE LOCAL DEPARTMENT OF SOCIAL**
30 **SERVICES, IN A CHILD PROTECTIVE SERVICES INVESTIGATION CONDUCTED**

1 UNDER TITLE 5, SUBTITLE 7 OF THE FAMILY LAW ARTICLE CONCERNING ANY
2 ALLEGATION OF ABUSE OR NEGLECT WITHIN ANY ASSIGNED FACILITY;

3 [(6)] (7) receive reports of the findings of child protective services
4 investigations of allegations of abuse or neglect of a child in a facility;

5 [(7)] (8) ensure that each facility is in compliance with the
6 regulations applicable to residential facilities;

7 [(8)] (9) collaborate with the Department, the Department of Human
8 Resources, the Department of Health and Mental Hygiene, and the Governor's Office
9 for Children in all matters related to the licensing and monitoring of children's
10 residential facilities; and

11 [(9)] (10) [have] DESIGNATE a representative [available to attend
12 meetings] TO SERVE AS AN EX OFFICIO MEMBER of the advisory boards established
13 under § 9-211 AND § 9-230 of the Human Services Article.

14 (C) WHEN EVALUATING THE DELIVERY OF SERVICES TO CHILDREN AND
15 THE POLICIES AND PRACTICES ESTABLISHED BY THE DEPARTMENT, THE
16 OFFICE OF THE JUVENILE JUSTICE MONITOR SHALL CONSIDER THE RIGHTS
17 AND BEST INTERESTS OF THE CHILDREN.

18 (D) (1) THE OFFICE OF THE JUVENILE JUSTICE MONITOR SHALL
19 MAKE RECOMMENDATIONS TO IMPROVE SERVICES TO CHILDREN, INCLUDING
20 RECOMMENDING CHANGES IN STATE POLICIES, PRACTICES, AND SYSTEMS
21 CONCERNING CHILDREN.

22 (2) THE RECOMMENDATIONS DEVELOPED UNDER PARAGRAPH
23 (1) OF THIS SUBSECTION MAY BE BASED ON RESEARCH, EXISTING STATE AND
24 NATIONAL STANDARDS, AND ACCEPTED BEST PRACTICES.

25 6-405.

26 The [Unit] OFFICE OF THE JUVENILE JUSTICE MONITOR may:

27 (1) review relevant laws, policies, procedures, and juvenile justice
28 records[, including records relating to individual youth];

29 (2) on request, conduct interviews with staff, [youth] CHILDREN, and
30 others;

31 [(3)] review investigative reports produced by the Department relating
32 to youth in facilities; and

1 (4) participate, within the context of the local department of social
2 services' multidisciplinary team process, in a child protective services investigation
3 conducted under Title 5, Subtitle 7 of the Family Law Article concerning any
4 allegation of abuse or neglect within any assigned facility.]

5 **(3) REVIEW RECORDS RELATING TO INDIVIDUAL CHILDREN OR**
6 **STAFF, INCLUDING PERSONNEL RECORDS, IN COMPLIANCE WITH APPLICABLE**
7 **CONFIDENTIALITY LAWS;**

8 **(4) REVIEW ELECTRONIC RECORDS RELATING TO ITS**
9 **MONITORING DUTIES, INCLUDING INCIDENT REPORTS, GRIEVANCES, AND ANY**
10 **OTHER ELECTRONIC RECORDS KEPT BY THE DEPARTMENT;**

11 **(5) WITH ADVANCE NOTICE TO THE DEPARTMENT, AND IN**
12 **COMPLIANCE WITH RELEVANT CONFIDENTIALITY LAWS, RETAIN EXPERTS IN**
13 **THE FIELD OF JUVENILE JUSTICE TO ASSIST IN ITS MONITORING FUNCTIONS;**
14 **AND**

15 **(6) TAKE ACTION TO ADVOCATE FOR LEGISLATIVE AND SYSTEMIC**
16 **REFORM, INCLUDING CONDUCTING PROGRAMS OF PUBLIC EDUCATION.**

17 **6-406.**

18 **(A) (1) IF THE OFFICE IDENTIFIES A PROBLEM IN THE STATE'S**
19 **PROVISION OF SERVICES TO CHILDREN, THE OFFICE OF THE JUVENILE**
20 **JUSTICE MONITOR SHALL MEET WITH THE APPROPRIATE AGENCY TO DISCUSS**
21 **THE PROBLEM AND IDENTIFY POSSIBLE RESPONSES THE AGENCY MAY**
22 **CONSIDER.**

23 **(2) AFTER MEETING WITH THE APPROPRIATE AGENCY, THE**
24 **OFFICE OF THE JUVENILE JUSTICE MONITOR SHALL REPORT ITS FINDINGS**
25 **AND RECOMMENDATIONS TO THE DEPARTMENT.**

26 **(B) (1) WITHIN 30 DAYS AFTER RECEIVING A REPORT ISSUED BY THE**
27 **OFFICE OF THE JUVENILE JUSTICE MONITOR UNDER THIS SECTION OR UNDER**
28 **§ 6-407 OF THIS SUBTITLE, THE DEPARTMENT SHALL DEVELOP A CORRECTIVE**
29 **ACTION RESPONSE THAT ADDRESSES THE FINDINGS AND RECOMMENDATIONS**
30 **OF THE OFFICE OF THE JUVENILE JUSTICE MONITOR AND SPECIFIES WHAT**
31 **ACTIONS, IF ANY, THE DEPARTMENT HAS TAKEN OR WILL TAKE IN RESPONSE TO**
32 **THE PROBLEM IDENTIFIED BY THE OFFICE OF THE JUVENILE JUSTICE**
33 **MONITOR.**

1 **(2) THE RESPONSE DEVELOPED BY THE DEPARTMENT UNDER**
2 **PARAGRAPH (1) OF THIS SUBSECTION MAY BE DEVELOPED IN CONJUNCTION**
3 **WITH THE OFFICE OF THE JUVENILE JUSTICE MONITOR.**

4 **(C) THE DEPARTMENT SHALL REPORT QUARTERLY TO THE OFFICE OF**
5 **THE JUVENILE JUSTICE MONITOR ON THE STATUS OF THE CORRECTIVE**
6 **ACTION RESPONSE DEVELOPED UNDER SUBSECTION (B) OF THIS SECTION TO**
7 **ALLOW THE OFFICE OF THE JUVENILE JUSTICE MONITOR TO MONITOR THE**
8 **DEPARTMENT'S IMPLEMENTATION OF THE CORRECTIVE ACTION RESPONSE.**

9 **[6-406.] 6-407.**

10 **(a) (1) The [Unit shall] OFFICE OF THE JUVENILE JUSTICE MONITOR**
11 **MAY ISSUE A SPECIAL report [in a timely manner] AT ANY TIME to the Executive**
12 **Director, the Secretary, and, in accordance with § 2-1246 of this article, the Speaker of**
13 **the House of Delegates and the President of the Senate ON:**

14 **[(1) (I) knowledge of any problem regarding the care, supervision,**
15 **and treatment of children [in facilities];**

16 **[(2) (II) findings, actions, and recommendations, related to the**
17 **investigations of disciplinary actions, grievances, incident reports, and alleged cases of**
18 **child abuse and neglect; [and]**

19 **(III) THE CONDITIONS IN RESIDENTIAL FACILITIES AND**
20 **SERVICES PROVIDED TO CHILDREN; AND**

21 **[(3) (IV) all other findings and actions related to the monitoring**
22 **required OR PERMITTED under this subtitle.**

23 **(2) A COPY OF ANY REPORT ISSUED UNDER PARAGRAPH (1) OF**
24 **THIS SUBSECTION SHALL BE PROVIDED TO THE STATE ADVISORY BOARD FOR**
25 **JUVENILE SERVICES.**

26 **(b) (1) The [Unit] OFFICE OF THE JUVENILE JUSTICE MONITOR shall**
27 **report quarterly to the Executive Director [and], the Secretary, AND, IN**
28 **ACCORDANCE WITH § 2-1246 OF THIS ARTICLE, THE GENERAL ASSEMBLY ON**
29 **INVESTIGATIONS OR EVALUATIONS OF SERVICES.**

30 **(2) A copy of the report shall be provided to the State Advisory Board**
31 **for Juvenile Services [and, in accordance with § 2-1246 of this article, the General**
32 **Assembly].**

33 **(3) The report shall include:**

1 (i) all activities of the [Unit] **OFFICE OF THE JUVENILE**
2 **JUSTICE MONITOR**;

3 (ii) actions taken by the Department resulting from the findings
4 and recommendations of the [Unit] **OFFICE OF THE JUVENILE JUSTICE MONITOR**,
5 including the Department's response; and

6 (iii) a summary of any violations of the standards and
7 regulations of the Department that remained unabated [for 30 days or more during
8 the reporting period] **SINCE THE DATE OF THE LAST QUARTERLY REPORT**.

9 (c) [Beginning in 2006, on] **ON** or before November 30 of each year, the
10 [Unit] **OFFICE OF THE JUVENILE JUSTICE MONITOR** shall report to the Executive
11 Director, the Secretary, the advisory boards established under § 9-230 of the Human
12 Services Article, the Governor, and, in accordance with § 2-1246 of this article, the
13 General Assembly, on all the activities of the Office and the actions taken by the
14 Department in response to findings and recommendations of the [Unit] **OFFICE OF**
15 **THE JUVENILE JUSTICE MONITOR**.

16 **6-408.**

17 (A) (1) **THE OFFICE SHALL HAVE ACCESS TO, INCLUDING THE RIGHT**
18 **TO INSPECT AND COPY, ANY RECORDS NECESSARY TO CARRY OUT ITS**
19 **RESPONSIBILITIES.**

20 (2) **IF THE OFFICE OF THE JUVENILE JUSTICE MONITOR IS**
21 **DENIED ACCESS TO RECORDS NECESSARY TO CARRY OUT ITS**
22 **RESPONSIBILITIES, THE DIRECTOR MAY ISSUE A SUBPOENA FOR THE**
23 **PRODUCTION OF THE RECORDS.**

24 (B) (1) **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
25 **SUBSECTION, ALL INFORMATION OBTAINED OR GENERATED BY THE OFFICE OF**
26 **THE JUVENILE JUSTICE MONITOR IN THE COURSE OF AN INVESTIGATION AND**
27 **ALL CONFIDENTIAL RECORDS OBTAINED BY THE OFFICE OF THE JUVENILE**
28 **JUSTICE MONITOR ARE CONFIDENTIAL AND MAY NOT BE DISCLOSED OR**
29 **SUBJECT TO DISCLOSURE UNDER THE PUBLIC INFORMATION ACT.**

30 (2) **INFORMATION OR RECORDS OTHER THAN CONFIDENTIAL**
31 **INFORMATION CONCERNING A PENDING LAW ENFORCEMENT INVESTIGATION**
32 **OR PENDING CRIMINAL PROSECUTION MAY BE DISCLOSED IF THE DIRECTOR**
33 **DETERMINES THAT DISCLOSURE IS IN THE PUBLIC INTEREST OR NECESSARY TO**
34 **ALLOW THE OFFICE OF THE JUVENILE JUSTICE MONITOR TO PERFORM ITS**
35 **RESPONSIBILITIES.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2010.